

RA3

UNAPPROVED MINUTES  
CITY OF MILPITAS

Minutes: Regular Meeting of Milpitas Redevelopment Agency (Including  
Joint Meeting with City Council and Financing Authority)  
Date of Meeting: March 15, 2005  
Time of Meeting: 8:24 p.m.  
Place of Meeting: Council Chambers, City Hall

---

**RA1.  
CALL TO ORDER**

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:24 p.m.

**RA2.  
ROLL CALL**

Present were Mayor Esteves, Vice Mayor Gomez, and Agency/Councilmembers Giordano, Livengood, and Polanski.

**RA3.  
MINUTES**

There were no minutes scheduled for approval.

**RA4.  
AGENDA**

MOTION to approve the agenda as submitted.

M/S: Polanski, Gomez. Ayes: 3 Absent: 2 (Giordano, Livengood)

Councilmembers/Agency Members Giordano and Livengood were out of their seats when the vote was taken.

**RA5.  
LIBRARY DESIGN  
PROGRESS REPORT**

Projects Manager Mark Rogge reported the Library design was halfway through the Schematic Design Phase, and the project was on schedule and on budget. Mr. Rogge presented layouts of the first and second floors and entry ways and described the Market Place where all the most popular items in the library that people might want to come to immediately. Mr. Rogge said staff was working on other things that might be seen in the lobby, such as a little café area and market place area, and staff was also working on the exterior elements of the building. Mr. Rogge also presented an update on the garages reporting that five proposals for the MidTown East and MidTown West parking garages were received, all five were interviewed, and Chong Partners was selected; staff was in negotiation with them and would be bringing that to the Council probably at the next meeting.

MOTION to note receipt and file the progress report on the Library design.

M/S: Livengood, Gomez.

Ayes: 5

**RA6.  
PUBLIC ARTS POLICY  
FUNDING  
RECOMMENDATIONS**

Finance Director Emma Karlen reported on February 15, 2005, staff proposed refinement of the public arts policy and received direction from the Council to meet with the Council CIP Subcommittee, the Council Finance Subcommittee, and the Arts Commission for recommendations on the application of the 1.5% formula and provide a better definition for eligible CIP projects. Ms. Karlen said a major project was defined as projects that add value or increase the value to the City and were not intended to be repair and maintenance in nature; the 1.5% formula would also apply to actual CIP expenditures instead of using the budget; the main reason was because sometimes when a project was finished under budget, the money was usually re-appropriated to another project; therefore, this was more accurate funding and not double accounting for it.

Councilmember Giordano said a question was raised by one of the Alliance for the Arts members if actual expenditures for a project (for example a \$900,000 project) exceeded the \$1 million threshold, would there be some way to guarantee that the project would be charged the 1.5%? Ms. Karlen responded that could be included if it exceeded the threshold because it looked at actual expenditures versus the budget.

Councilmember Polanski inquired what was the reasoning for the \$1 million threshold versus the discussion for the restrictive projects or grants as well as taking them out. Ms. Karlen said she thought the \$1 million threshold was just a recommendation that had been suggested by

the Finance Subcommittee to look at; there were many smaller projects that were under that threshold that were not intended to be major CIP projects.

Vice Mayor Gomez, speaking to the \$1 million threshold, said at the last meeting, the one thing Councilmember Giordano and he noticed was that there was clear consensus, at least from the majority of the Council, that they wanted this to apply to all major Capital Improvement projects; and when he and Councilmember Giordano met, they looked at the CIP projects and for the most part, most of them cost more than \$1 million and that was where the number came from; what they wanted to avoid having happen, because the current definition stated repair and maintenance, questions later on as to whether construction of a new traffic signal or construction of new ADA ramps would qualify.

Councilmember Giordano concurred with Vice Mayor Gomez stating that they wanted the policy to be self-generating, self-funding; she was also concerned about the issue of maintenance of the art projects that that there was not enough participation from the Alliance for the Arts group, and that was the reason for increasing it to four members from the Alliance on the Public Arts Committee.

Councilmember Livengood said he would prefer to emphasize what the Council had agreed upon and the significant impact that would have on public art in the City; he thought the 1.5% was a very strong number and showed a strong commitment on behalf of the Council; he thought the memo from Vice Mayor Gomez and Councilmember Giordano outlined some very important additions the Council hadn't gotten into, but it did serve as a reminder that there was going to be a framework associated with this. Councilmember Livengood thanked everybody who worked on this and said he thought the end project was going to be a dramatic improvement for Milpitas.

Mayor Esteves said he also wanted to mention that he thought one of the Arts Commission goals was to pursue *grant writing, fund raising, and sponsorship* to continue to seek more funds for public art.

Bill Foulk, Arts Commission, thanked the Council and said he echoed Councilmember Livengood's comments about how far this had come; it was encouraging to see that there was going to be a policy that would fund the arts in a significant way. Mr. Foulk further stated the only comment he had would be in regard to the one issue that seemed to be in conflict, and that was the idea of a \$1 million threshold; the idea of the \$1 million threshold came to him as a surprise, he wasn't sure why it was proposed, and thought it was a potentially harming issue that could make it so that there was very little funding for the arts during those years when we are not putting any major projects through. Mr. Foulk said he really didn't see a reason for a \$1 million threshold and would like to be able to see funding to continue even during the years when major project were not being put out.

Julie Cherry thanked the Council on behalf of every person who drives through the City, lives in the City, works here, or even visits because she really believed that this push for public art was going to make a big difference in Milpitas and the fact that each and every one of the Council was *supportive of the community being enhanced through art*. Ms. Cherry said she had come to all the meetings and had done quite a bit of research in public art policies, and restrictions on CIP funds; had evaluated 21 different cities and had a grid; what she had learned about putting these thresholds of \$1 million - there were 3 of the 21 cities that did that of the ones she evaluated - Denver, New York City, and Mountain View, CA - and it seemed to her in looking at the history of their public art policies - they don't start out with a threshold, they start out with a policy that is that the city is going to show support of public art through providing a percentage of their budget in their CIPs for public art, and then as that program grows, and as the public art portfolio grows, they begin to move their policy onto the private sector as well; so, as businesses come in, then they begin to ask for contributions from businesses to this fund; and as that contribution raises, the City's contribution lessens through putting on these thresholds; and she would envision that the City steps forward and shows its commitment to doing this and models for the businesses coming in that this is something that is important to them, and eventually when the portfolio was large enough, then you can begin to move this financial contribution onto your private section; and at that point, you raise the

thresholds and lower the amount that the City provides into the fund; some of the cities she evaluated had a \$50,000 threshold, \$500,000, and \$250,000, and \$300,000, the rest did not have any thresholds.

Vice Mayor Gomez said with respect to the threshold, there were a lot of questions as to what was going to happen in the future, and he was willing to give this a few years so that the Council could look at the CIP at a later date and see how it applied to later projects; he was willing to defer that but did want it spelled out in the ordinance simply because he did not want this tug of war going on later as to what projects were going to be repaired and maintenance and what projects the 1.5% could be applied to.

MOTION to approve the staff recommendations regarding the Public Arts Ordinance and direct the City Attorney to develop a Public Arts Ordinance consistent with staff recommendations as well as the following statement of purpose and additional guidelines provided in the memo, with the exception of item 1 (the \$1 million threshold) and that that be spelled out in the ordinance and be re-evaluated within three years.

M/S: Gomez, Livengood.

Councilmember Giordano said she would love to concur but felt she had compromised and had come a long way to what was developed tonight; she would support the motion with a \$1 million threshold as she believed the placement of art was for large projects. Councilmember Giordano further stated she would be voting against the motion based on that alone; if the \$1 million threshold was included, she would vote for it.

Mayor Esteves said he felt the motion was responsible, anything could be reviewed at any time, and thought three years was generous, and he would be supporting the motion.

Robin Hays, Arts Commission, said at the very first meeting that they had about the percent to the arts; they talked about trying to get things going, get things jump started, and one of the ways might be buying things that were reasonable and that are mass produced that are art; this to her sounded like it could be limiting that; she was not saying that they might not do that, but thought it could be a problem and could limit some opportunities. Ms. Hays stated she thought that if you have to always have original works of art, you would be getting so much less for the money; and if we have all original works of art, the cost was going to be 20 times more than if mass produced pieces were used, or even medium produced pieces; but if you would say everything had to be an original piece of art, we're going to get like 3 pieces where we could maybe get 30. Vice Mayor Gomez inquired what were the examples of pieces of mass produced that the Art Alliance had purchased in the past or something that had been done in the past in Milpitas. Ms. Hays responded the Arts Alliance had commissioned the pieces and she did not believe any of the items that had been used were mass produced.

Julie Cherry again addressed the Council commenting that the details would go into the ordinance and were not necessarily something that would have to be hashed out or discussed or even considered in the vote this evening; as far as the public art pieces, the Alliance did commission work and that was because they worked with the neighborhoods to have them design an idea of exactly what they wanted.

Bill Foulk again addressed the Council saying he appreciated Vice Mayor Gomez's efforts in trying to define what would be acceptable and not acceptable; but from the point of view of the Commissioners and the volunteers that were going to be working on these recommendations, it almost felt like they weren't being trusted; he thought they needed to be able to sit down as the new Committee for the Arts and have some freedom to decide what would be the best for the City. Mr. Foulk cited a Minute Man statute as a very nice piece of art that could very easily be purchased. Mr. Foulk said he didn't want the committee's hands to be tied with definitions of what's acceptable and what's not; the bottom line was they would bring their recommendations to the Council and the Council can turn them down if they think they are not appropriate.

Robin Hays again addressed the Council saying they would certainly go out into the community and find out what they feel is art and make sure the pieces are going to be well received before bringing them to the Council.

Mayor Esteves asked the maker of the motion if he could amend the motion to focus on the staff recommendation and the items in the memo could be considered by the Commission and then come back to the Council.

Vice Mayor Gomez restated the motion to approve the staff recommendation along with the items listed in the memo with the exception of item 1 (the \$1 million threshold) that would be deferred for three years.

VOTE ON MOTION: Ayes: 2 Noes: 3 (Esteves, Gomez, Polanski)

MOTION to accept the Public Arts Policy funding recommendation as listed in the agenda, and eliminate the \$1 million threshold; however, putting in language that it would be reviewed in three years or a certain number/period of time, and to include that the City and Redevelopment Agency would establish a Public Arts Committee composed of the membership at the Milpitas Arts Commission and four members of the Milpitas Alliance for the Arts or its successor non-profit organization.

Mayor Esteves noted Councilmember Polanski forgot to mention the 1.5% - applying the 1.5 formula. Councilmember Polanski said that was part of the staff recommendation - the four items listed; the 1.5% as outlined in the four items in the agenda.

M/S: Polanski, Esteves.

Councilmember Livengood said his issue with the motion was that there's a lot of information and a lot of suggestions in the memo he thought were appropriate and he wanted to have some indication that these issues were going to get discussed, dealt with, and brought back to the Council.

Councilmember Polanski said she had no objection, thought all the recommendations should go to the Milpitas Arts Commission for review, discussion, and then come back with recommendations and discussion to the full Council.

Councilmember Livengood inquired if that was part of her motion. Councilmember Polanski responded, yes, she would make that part of her motion. Councilmember Livengood, addressing the threshold issue - the motion he supported before was a little different than Councilmember Polanski's motion; the motion he supported before was that the threshold would become effective three years from the date of the approval. Councilmember Livengood asked if what was being said was to review it in three years. Councilmember Polanski said she thought that was the intent of what Vice Mayor Gomez had said in his motion. Mayor Esteves said that was his understanding too; his point was that it should not be an issue because at that point of time, any Councilmember could call for a review. Councilmember Polanski suggested maybe what would be appropriate for this motion to move this forward this evening was that this would come back to - for full discussion - if the threshold should be reviewed in 2-3 years or it should become effective in three years; she had no objection in reviewing it in that way. Mayor Esteves said that that issue would come back.

VOTE ON MOTION: Ayes: 3 Noes: 2 (Giordano, Gomez)

**\*RA7.  
AFFORDABLE HOUSING  
(FAIRFIELD DEVELOPMENT)**

Approved authorization to enter into negotiations with Fairfield Development L.P. to provide Agency Finance Assistance from its 20% Affordable Housing set-aside funds.

**RA8.  
ADJOURNMENT**

There being no further Redevelopment Agency business, Mayor Esteves adjourned the Redevelopment Agency meeting at 9:23 p.m.

Gail Blalock, Secretary/City Clerk